

**COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND**

**2009 Legislative Session**

Legislative Day # 11

**BILL NO. 2009-09**

**Introduced by: Charles County Commissioners**

**Planned Development Zone Amendment, PDZA #09-21**

---

---

**Date introduced:** 09 / 02 / 2009

**Public Hearing:** 09 / 02 / 2009 @ 6:30 p.m.

**Commissioners Action:** 09 / 02 / 2009 Enact

**Commissioner Votes:** WC: Y, EP: Y, RC: Y, SG: Y, GH: Y

**Pass/Fail:** Pass

**Effective Date:** 09 / 12 / 2009

**Remarks:** \_\_\_\_\_

NOTE: CAPITALS indicate matter added to existing text.  
[Brackets] indicate matter deleted from existing law.

1                   **COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND**

2  
3                                   **2009 Legislative Session**

4  
5           Bill No. 2009-09

6           Chapter. No. 297

7           Introduced by COPT-FACC Indian Head LLC

8           Date of Introduction 9/2/09

9  
10                                   **BILL**

11  
12           AN ACT concerning

13           Rezoning of parcel from Business Park (BP) and Medium Density Residential  
14           (RM) to Planned Employment Park (PEP)

15  
16           FOR the purpose of

17           Applying a Planned Development Zone Amendment to certain Business Park  
18           (BP) and Medium Density Residential (RM) zoned property.

19  
20           BY amending

21           Charles County Zoning Map 12.

22  
23           **SECTION 1.** NOW, THEREFORE, IN DUE CONSIDERATION OF THE  
24           TESTIMONY, FINDINGS OF FACT AND CONCLUSIONS OF LAW  
25           DESCRIBED IN ATTACHMENT "A", BE IT ENACTED BY THE COUNTY  
26           COMMISSIONERS OF CHARLES COUNTY, MARYLAND, that the Zoning  
27           Map of Charles County, Maryland, specifically Tax Map 12, Grids 4 , Parcels 4  
28           and 129; Tax Map 12, Grid 5, Parcels 120, 438 and 450; Tax Map 12, Grid 11,

1           Parcels 204 and 482; and, Tax Map 12, Grid 17, Parcel 150 in the Seventh  
2           Election District of Charles County, Maryland (hereinafter “the Properties”).  
3           The Property is located off of Indian Head Highway (Route 210), Livingston  
4           Road (Maryland Route 224) and Livingston Road (Maryland Route 227). The  
5           Properties are south of J.C. Parks Elementary School, Matthew Hinson Middle  
6           School and Brawners Estates, east of St. Mary’s Star of the Sea and north of the  
7           Glendening Natural Environmental Area, be amended as follows:

8  
9           **Rezone the parcel from Business Park (BP) and Medium Density**  
10          **Residential (RM) to Planned Employment Park as shown on attached Tax**  
11          **Map 12.**

12  
13          **SECTION 2.** BE IT FURTHER ENACTED, that the change in zoning  
14          specified herein is conditioned upon the execution of the Zoning Indenture in  
15          accordance with the provisions of §145 of the Code of Charles County,  
16          Maryland.


1       **SECTION 3.** BE IT FURTHER ENACTED, that this Act shall take effect TEN  
2       (10) calendar days after it becomes law.

3  
4                               COUNTY COMMISSIONERS OF  
5                               CHARLES COUNTY, MARYLAND


6  
7                                 
8                               Wayne Cooper, President

9  
10                                
11                              Edith J. Patterson, Vice President

12  
13                                
14                              Reuben B. Collins, II

15  
16                                
17                              Samuel N. Graves, Jr.

18  
19                                
20                              Gary V. Hodge

21                              ATTEST:  
22                                
23                              Denise Ferguson, Clerk



**COUNTY COMMISSIONERS OF CHARLES COUNTY, MARYLAND  
DECISION AND ORDER  
PLANNED DEVELOPMENT ZONE AMENDMENT, PDZA #09-21**

After public hearings on the proposed Base Zone Amendment ZMA #07-31 held September 2, 2009, having considered the entire record made at such hearing, including all testimony, documents, and exhibits offered therein by way of oral, written, or referenced material and in light of matters of public record of which official notice has been taken, the County Commissioners of Charles County, Maryland, hereby make the following Findings of Fact and Conclusions of Law applicable to the proposed Planned Development Zone Amendment, PDZA #09-21.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. The Petitioner, COPT-FACC Indian Head LLC, has requested a Planned Development Zone Amendment to site a floating zone on approximately 268 acres, more or less, of land, amending the zoning from BP, Business Park Zone and the RM, Medium Density Residential Zone to PEP, Planned Employment Park Zone for the subject properties.

***The Property***

2. The subject properties are identified as Tax Map 12, Grids 4 , Parcels 4 and 129; Tax Map 12, Grid 5, Parcels 120, 438 and 450; Tax Map 12, Grid 11, Parcels 204 and 482; and, Tax Map 12, Grid 17, Parcel 150 in the Seventh Election District of Charles County, Maryland and are contiguous (hereinafter “the Property”). The Property is located off of Indian Head Highway (Route 210), Livingston Road (Maryland Route 224) and Livingston Road (Maryland Route 227). The Property is south of J.C. Parks Elementary School, Matthew Henson Middle School and Brawners Estates, east of St. Mary’s Star of the Sea and north of the Glendening Natural Environmental Area.

3. The Property adjoins properties zoned IG (General Industrial), RM (Medium Density Residential), RL (Low Density Residential), BP (Business Park), RO

(Residential Office), and RC(D) (Rural Conservation Deferred).

4. The Property is located within the Development District as defined by the *2006 Comprehensive Plan* and within the Bryans Road Sub-Area Plan.

#### ***Procedural History***

5. The Petitioner's request, in accordance with Chapter 297 of the Charles County Code (*Charles County Zoning Ordinance*), is based upon the requirements of §§102-104 and 108.

6. Petitioner's application, as required by §297-103 Master Plan, of the *Charles County Zoning Ordinance*, was filed January 28, 2009.

7. The Planning Commission held a Public Meeting on the application to rezone the Subject Property to PEP, Planned Employment Park on August 3, 2009.

8. On August 17, 2009, the Planning Commission held a work session and recommended the County Commissioners approve the Planned Development Zone Amendment by a 5-0 vote and recommended approval of the Conditions of Approval stated in the staff report.

9. The County Commissioners held a Public Hearing on September 2, 2009 at 6:00 p.m. in the Charles County Commissioner's Hearing Room. The hearing was properly advertised on August 21, 2009 and August 26, 2009 in the *Maryland Independent*, a newspaper of general circulation within Charles County, Maryland. In accordance with §297-448 of the *Charles County Zoning Ordinance*, the Property was posted and an affidavit of posting was received.

10. Concurrently with its zoning application Petition, Petitioner submitted a proposed Master Plan for a project on the Property identified as the Indian Head Science and Technology Park. The County Commissioners, in accordance with §297-105 of the *Charles County Zoning Ordinance* found the proposed necessary zoning classification

and Master Plan for the Indian Head Science and Technology Park (hereinafter known as the “Park”) is sufficient to achieve the purposes of the Planned Employment Park zone (PEP), is compatible with the surrounding area and is consistent with the Comprehensive Plan and the Bryan’s Road Sub-Area Plan.

***Consistency with the Comprehensive Plan***

11. The Commissioners found the proposed Planned Employment Park is located within the Development District as defined by the *2006 Comprehensive Plan*.
12. The Property is located within the defined Employment and Industrial Park District.
13. The Park allows for the location of expanding businesses, including light industry, technology and professional offices in the County.
14. The Park will concentrate density and intensity in a mixed use district and will pay for any alterations, improvements or additions to roads and other facilities necessary within the Park.
15. The Park will be providing an internal hiker biker trail system.
16. The Park is located within the Mattawoman Sewer Service Area, the primary growth area for the County.
17. Approximately 117 acres of the Properties will remain undeveloped in order to protect natural resources, including the Mattawoman Creek, and to enhance environmental features of the County. All of the 117 acres will be placed in a Resource Protection Zone (RPZ) and will remain undeveloped.



### ***Bryans Road Sub-Area Plan***

18. The Properties are located within the Bryans Road Sub-Area, but are located outside of the defined Town Center.

19. The proposed Planned Employment Park supports the goal of supporting the interests of the Naval Surface Warfare Center in Indian Head.

20. The Park supports the Bryans Road Town Center by providing a pool of workers that can patronize the center.

### ***Fiscal Impact***

21. An Economic and Fiscal Impact Study estimates the Park will generate an estimated net annual fiscal benefit to the County equal to \$1,537,934. The post-construction estimated value of the Park is \$188,918,048.

### ***Compatibility with the Surrounding Area***

22. The Commissioners find that the siting of the Planned Employment Park zoning on the Property and the implementation of the Master Plan are compatible with the surrounding area and provide adequate transition in intensity and building design. The area surrounding this site contains a mixture of vacant land, medium density residential development, some commercial development, the Maryland Airport and two educational institutions. It is found that the development of this site as a PEP Zone will be consistent with the surrounding neighborhood. As previously stated in this Decision, the comprehensive development of the entire property minimizes impact to the adjacent properties and the environment.

### ***Planned Employment Park Zone***

23. The County Commissioners make the following findings based upon the requirements of §297-108 of the *Zoning Ordinance*.

(a) *Purpose.* It is the purpose of the Planned Employment Park (PEP) Zone to establish standards for planned developments of light and medium industrial uses along



*with related commercial uses.*

Finding: That the location of the proposed Master Plan, adjacent to MD Routes 224 and 227, and its proximity to US 210 and the Maryland Airport, is well situated to provide a site for a planned employment park. The Master Plan promotes an integrated mix of office, retail, and research and development uses, which is consistent with the general purpose above.

*Section 108(A)(1). To encourage development which presents an attractive appearance and is compatible with uses in the surrounding area by means of appropriate siting of buildings, service areas, and landscape treatment.*

Finding: Although the Master Plan does not include specific layout of buildings, this project will include the use of a design code which will provide for architectural designs and appropriate landscape buffers. The design code for the site and a more detailed overall plan for the project will be presented at Step2: General Development Plan which will define appearance and appropriate siting of buildings, service facilities and landscaping. Moreover, Petitioner has won many awards over a number of years for its outstanding project designs and construction.

*Section 108(A)2. To locate development on land with water and sewer facilities which meet applicable County standards, on sites served by one or more major highways, and on sites that are clearly suitable for the physical characteristics of development for such uses.*

Finding: The Master Plan is located on MD Route 210 and near the Maryland Airport. The site will have water and sewer facilities adjacent to its boundaries, and the site is located in the Development District, which is deemed suitable for such uses as those proposed. The subject properties are currently part of the County's spring water/sewer amendment process which have been adopted by the County Commissioners and are under review by MDE.

*Section 108(A)3. To provide a more flexible approach to the comprehensive development of large tracts of land in terms of land use, intensity, and design.*

Finding: The designation of this project as a PEP allows inclusion of research and development flex space together with office space and retail uses. By approving a PEP Zone, the county allows for a more flexible and comprehensive approach to the development of the land compared to separate and piecemeal development of each individual parcel under existing zoning. The master plan shows four types of uses planned for the Park: Industrial, Office, Retail and Energetics. The diverse mix will allow the development to react to changes in the market. In addition, the density proposed is well below the density allowed, which provides additional flexibility to increase density should the market warrant it. Also see the findings set forth in Section 108(A)(1).

Finding: The PEP allows a design that has less impact on lot coverage. Approximately 34 lots with a three (3) acre minimum can be created under PEP regulations compared to 96 single family lots in the Residential Medium Density (RM) Zone and 176 lots with a 30,000 square foot minimum in the Business Park (BP) Zone.

Finding: The PEP allows a design that has less impact on lot coverage. Approximately 34 lots with a three (3) acre minimum can be created under PEP regulations compared to 96 single family lots in the Residential Medium Density (RM) Zone and 176 lots with a 30,000 square foot minimum in the Business Park (BP) Zone.

*Section 108(A)4. To be used to implement the Comprehensive Plan and other County plans and policies in a manner closely compatible with said County plans and policies.*

Finding: This project will implement a large number of goals and objectives of the Comprehensive Plan as referenced in the Section entitled “Consistency with the Comprehensive Plan” of this Decision and Order.

*Section 108(A)5. To establish standards through which the land use objectives and recommendations of the Comprehensive Plan can serve as the basis for evaluating individual PEP proposals.*

Finding: Basic standards have been established under the Master Plan which will meet the land use objectives and recommendations of the Comprehensive Plan. A more detailed plan will be submitted with the General Development Plan which will refine these objectives. Please refer to the Section of this Decision and Order entitled, "Consistency with the Comprehensive Plan." Such standards include lessening the traffic on neighborhood roads by providing an internal road network, preserving environmental features by developing the project in a park-like setting, providing the opportunity for Charles County citizens to live and work in the County, supporting the Bryan's Road Sub-Area and BRAC projects, and supporting Smart Growth goals by developing in the Development District.

*Section 108(A)6. To promote the type of development which corrects any existing ecological or environmental deficiency found on or in the vicinity of the subject property.*

Finding: No known existing ecological or environmental deficiencies are known on this property. The Master Plan has been designed to have a minimal impact on the existing environmental features. Approximately 117 acres, or 56%, of the subject parcels shall be placed in a Resource Protection Zone (RPZ). One identified rare species, "baby Blue Eyes" has been identified and is placed within the RPZ.

*Section 108(A)7. To ensure that all developments will positively contribute to the County's historic and cultural heritage, as reflected in the Comprehensive Plan, by preserving historic structures, sites, and vistas.*

Finding. There are no identified historic structures or sites located on this project's site.



However, the Maryland Historical Trust has requested to perform a Phase I Archeological Investigation prior to any construction. Copies of this study will be submitted to the County.

*Section 108(A)8. To reduce traffic congestion by improving the level of service (LOS) of the road network serving the development by reducing or minimizing entrances, curb cuts, and side friction along main roads by the construction of service roads, in accordance with County policies, and by incorporating trip reduction measures into developments.*

Finding: The applicant is currently performing a detailed traffic study of the surrounding area to be submitted prior to the first Site Development Plan or Preliminary Plan. The traffic study will be reviewed by both the County and State Highway Administration regarding impacts on surrounding road networks and potential intersection/road improvements which may be deemed necessary. Moreover, the Master Plan shows an interior road network to serve the Park.

*Section 108(A)10. To promote the development and location of qualified "target" industries as designated by the County Economic Development Department.*

Finding. This project will create the necessary floor space to allow target industries to locate in Charles County. The designated office space and research and development space will provide for the type of employers identified by the County's Economic Development Department. The strategic location of the Park provides a site for defense related contractors who support the operations at the Naval Surface Warfare Center at Indian Head to locate their operations. As such, the development will cater to businesses engaging in energetics, the manufacturing of energetic parts as well as other "high tech industries" and defense contractors.

*Section 108(A)11. To require the orderly staged construction of large-scale, comprehensively planned employment centers.*



Finding. The Applicant has a fourteen (14) year phasing plan to promote the orderly staged construction of this project. The first four years indicates approximately 350,000 SF of office and industrial space will be provided. Retail and the remaining industrial uses will be phased in during years 5 and 6 with the remaining office space phased in over the next eight years. The project is approved for 1,100,000 square feet of office uses, 379,000 square feet of industrial use and 21,000 square feet of retail uses for a total of 1,500,00 square feet. There are no residential uses in the project. The Applicant has a significant history successful projects of this nature and scale.

*Section 108 (A)12 To assure compatibility of land uses proposed in such a development with uses in the surrounding area of the site by incorporating higher standards of land planning and site design than could be accomplished under the base zone.*

The approval of this PEP zoning request and associated Master Plan will allow for the project to be developed as a science and technology park with potential clients that could provide the energetics research and development required by the nearby Naval Surface Warfare Center at Indian Head. This is not possible under the existing RM and BP zoning. Also, see the findings set forth in Section 108(A)(1).

*Section 108(A)13 To encourage and provide for efficient use of energy resources through shared facilities or other economies of scale or technology, including innovative fuels.*

Services to the individual commercial parcels will be shared and the most efficient and innovative energy alternatives will be implemented to the greatest practical extent. The Applicant has won numerous awards for its prior innovative and efficient use of energy resources in its projects.

## ORDER

Based upon the above Findings and Conclusions, it is, this 22<sup>nd</sup> day of September, 2009, by the County Commissioners of Charles County, Maryland,

ORDERED, that the above captioned petition is GRANTED and that the Subject Property currently zoned BP and RM shall be zoned in accordance with the terms and provisions of Chapter 297 of the *Charles County Code* within the PEP Zone, as shown on the attached Zoning Map 12, with the Conditions of Approval as set forth below; and it is further

ORDERED, that the Master Plan be approved and recorded among the land records of Charles County, Maryland upon the following conditions:

FIRST: The intensity range for the portion of the Park located on the Business Park (BP) base zone, approximately 204 acres, is based on the total maximum square feet of development as stipulated in the findings of this report. Floor are ratios may range between 0.41-0.63 Floor Area Ratio (FAR) and the portion located on the Medium Density Residential (RM) base zone, approximately 64 acres, shall range from 0.29-0.45 FAR provided the project remains within the maximum development intensity. The final intensity (FAR) for the Park shall be determined upon the Step Two: General Development Plan approval.

SECOND: A Design Code shall be provided with the General Development Plan submission

THIRD: Professional Office Buildings in the Indian Head Science and Technology Park will seek LEED or equivalent certification.

FOURTH: Low impact development storm water management (SWM) techniques, some of which involve infiltration, will be utilized as stipulated by the Maryland Stormwater Management Act of 2007.

FIFTH: Industrial use buildings on parcels that adjoin the two existing school properties, JC Parks and Matthew Henson, will be sited so that the buildings are as close to the front building restriction line as possible.

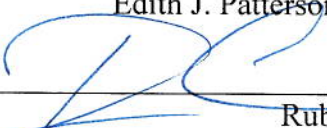
SIXTH: A Phase I archeological investigation shall promptly be completed prior to any construction if requested by the Maryland Historical Trust. Copies of the study and correspondence with the Maryland Historic Trust shall be provided to the Charles County Planning Office.

ORDERED, that the Applicant must comply with all applicable federal, state and local laws and regulations.


COUNTY COMMISSIONERS OF  
CHARLES COUNT, MARYLAND


  
Wayne Cooper, President

  
Edith J. Patterson, Vice President

  
Ruben B. Collins, II

  
Samuel N. Graves, Jr.

  
Gary V. Hodge

ATTEST:  
  
Denise Ferguson, Clerk